

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
SHERYL HARDING and MILTON CYNTJE

Plaintiffs,

- against -

THE AUTOMOBILE INSURANCE COMPANY  
OF HARTFORD CONNECTICUT,

Defendant.  
-----X

**2007 CIV 8344**

**SCHEDULING  
ORDER**

**Conference date:  
December 20, 2007  
4:00 p.m.**

WHEREAS, the court issued an Order for a Conference in accordance with Fed. R. Civ. P. 16(b) on October 17, 2007 (the "Order"); and

WHEREAS, the Order requires that the parties jointly prepare and sign a proposed scheduling order containing certain information;

NOW, THEREFORE, the parties hereby submit the following information as required by the Order:

- (1) The initial pre-trial conference occurred on November 13, 2007 at 4:30 p.m.

The Preliminary Scheduling Conference is scheduled to occur on December 20, 2007.

The parties appear by counsel as follows:

Speyer & Perlberg LLP  
Attorneys for Defendant  
115 Broadhollow Road, Suite 250  
Melville, New York 11747  
(631) 673-6670

Wilkofsky, Friedman, Karel &  
Cummins  
Attorneys for Plaintiffs  
299 Broadway, Suite 1700  
New York, New York 10007  
(212) 285-0510

- (2) A concise statement of the issues as they now appear:

- (a) The Defendant issued a policy of insurance to the Plaintiffs, identified as Policy Number 977255040;
- (b) Said policy provided insurance coverage for the premises located at 2421 Buck Street, Bronx, New York 10461 (hereinafter the "premises") for the period of November 18, 2005 to November 18, 2006;

- (c) The Plaintiffs claim property damage in the amount of at least \$150,000.00 to the premises as a result of vandalism upon the premises occurring on September 5, 2006;
- (d) The Plaintiffs submitted a claim for the aforesaid damage to the Defendant. No part of that claim has been paid to date.
- (e) The issues presented are as follows:
  - (i) Whether the loss alleged in the complaint occurred to the "dwelling" on the "residence premises", defined in the policy as:  
"residence premises", means the one or two family dwelling, other structures, and grounds or that part of any other building where you reside and which is shown as the "residence premises" in the Declarations.
  - (ii) Whether the Plaintiffs intentionally and/or knowingly made false statements to the Defendant or engaged in fraudulent conduct in their insurance application or at anytime during the insurance claims process.
  - (iii) Whether the Plaintiffs made false statements in their application for insurance, which were relied upon by the Defendant in issuing this particular policy.

(3) Discovery schedule:

(a) Depositions:

- (i) Plaintiffs Sheryl Harding-Cyntje and Milton Cyntje, to be held on or before April 30, 2008 at the office of Speyer & Perlberg LLP, 115 Broadhollow Road, Suite 250, Melville, NY 11747;
- (ii) After plaintiffs have been deposed, Defendant, to be held on or before April 30, 2008 at the office of Wilkofsky, Friedman, Karel & Cummins, 299 Broadway, Suite 1700, New York, NY 10007;
- (iii) Depositions of non-party witnesses to be held on or before April 30, 2008, with location to be determined.

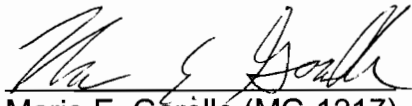
(b) Document Production;

- (i) All parties are to serve upon opposing counsel and electronically file with this Court an initial disclosure statement pursuant to Fed. R. Civ. P. 26 on or before January 20, 2008.
- (ii) All parties are to serve upon opposing counsel and electronically file with this Court a Demand for Production of Documents pursuant to Fed. R. Civ. P. 34 on or before January 20, 2008.

- (iv) All parties are to respond to said Demand for Production of Documents on or before February 15, 2008. Said responses shall be in compliance with Fed. R. Civ. P. 34.
- (v) If any party seeks documents from a non-party to this action, requests for those documents shall be made by subpoena pursuant to Fed. R. Civ. P. 45 on or before February 15, 2008.
- (c) Expert Reports and Depositions;
  - (i) The Defendant has retained an expert who it expects will testify with regard to the actual cash value and/or replacement cost value of items claimed damaged by the Plaintiffs: ] by May 30
  - (ii) The Plaintiff has not retained an expert at this time.
- (d) All discovery is to be completed on or before July 31, 2008. e
- (e) The Plaintiff will supply its pre-trial order matters to Defendant on or before May 20, 2008;
- (f) The parties will submit a pre-trial order in a form conforming with the Court's instructions together with trial briefs and either (1) proposed findings of fact and conclusions of law for a non-jury trial, or (2) proposed voir dire questions and proposed jury instructions for a jury trial on or before June 3, 2008
- (g) A final pre-trial conference pursuant to Fed. R. Civ. P. 16(d), will be held in this matter as set forth below:  
May 13 at 4<sup>30</sup>
- (4) Statement of any limitations to be placed on discovery, including any protective or confidentiality orders;  
  
NONE
- (5) Statement of those discovery issues, if any, on which counsel, after a good faith effort, were unable to reach an agreement;  
  
NONE

- (6) Anticipated fields of expert testimony, if any;
- (i) The Defendant anticipates presenting expert testimony with regard to the actual cash value and/or replacement cost value of items claimed damaged by the Plaintiffs;
  - (ii) The Plaintiff anticipates presenting expert testimony with regard to the value of the structure and/or repair costs, and the necessity for repair costs expended.
- (7) The trial will be before a jury. The anticipated length of trial is five days.
- (8) This Scheduling Order may be altered or amended only upon a showing of good cause not foreseeable at the time of the initial pre-trial conference and when justice so requires;

SPEYER & PERLBERG, LLP



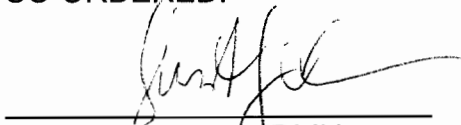
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WILKOFSKY, FRIEDMAN, KAREL &  
CUMMINS



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New York, New York 10007  
(212) 285-0510

SO ORDERED:



SHIRA A. SCHEINDLIN  
U.S.D.J.

12/20/07